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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,898	09/25/2003	William J. Masek	LOT920030024US1	5987

23550 7590 04/16/2007 HOFFMAN WARNICK & D'ALESSANDRO, LLC 75 STATE STREET 14TH FLOOR ALBANY, NY 12207	**EXAMINER** MITCHELL, JASON D

ART UNIT	PAPER NUMBER
2193	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 April 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>*1-26*</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>*1-26*</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-26 are pending in this application.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   **Claims 1-5, 7-14, 16-23 and 25-26 are rejected under 35 U.S.C. 102(b) as**

being anticipated by US 6,002,871 to Duggan et al. (Duggan).

4.   **Regarding Claims 1, 9 and 18:** Duggan discloses:

providing a test application that satisfies reentrancy requirements (col. 21, lines

57-61 'Each session is ... reentrant') on a client (col. 5, lines 18-21 'the test tool ... runs

on a single computer'); and

instantiating a plurality of instances of the test application using threads (col. 21,

lines 57-61 'Each session is executed as a separate thread'), wherein the instantiating

and execution of each of the plurality of instances of the test application occur within a

single process (col. 21, lines 53-57 'The basic module 12 is also responsible for

initiating multiple, concurrent sessions'; col. 21, lines 57-61 "It is the multi-threaded,

reentrant nature of the test tool program code").

5.   **Regarding Claim 2:** The rejection of claim 1 is incorporated; further Duggan

discloses:

identifying application protocol interfaces (APIs) associated with the test

application prior to the instantiating step (col. 12, lines 21-23 'A list box 272 contains a

list of all of the commands in the command module created for testing a given

application program'); and

providing a test script capable of invoking the APIs (col. 13, lines 59-62 'a test

operator [can] create test scripts containing ... command module commands'), wherein

upon execution, the test script instantiates the plurality of instances of the test

application (col. 5, line 67-col. 6, line 3 'the test tool program executes multiple

concurrent sessions') using threads (col. 21, lines 57-61 'Each session is executed as a

separate thread') within the single process (col. 21, lines 53-57 'The basic module 12 is

also responsible for initiating multiple, concurrent sessions'; col. 21, lines 57 "It is the

multi-threaded, reentrant nature of the test tool program code").

6.   **Regarding Claims 3, 14 and 23:** The rejection of claims 1, 9 and 18 are

incorporated respectively, further; Duggan discloses the server application is a network

application (col. 5, lines 9-12 'a test tool for testing application programs ... over a

network').

7.   **Regarding Claims 4, 12 and 21:** The rejection of claims 1, 9 and 18 are

incorporated respectively, further; Duggan discloses the reentrancy requirements

dictates that the plurality of instances of the test application be run within the single

process without interfering with each other (col. 21, lines 57-61 'reentrant nature of the

test tool').

8.   **Regarding Claims 5, 13 and 22:** The rejection of claims 1, 9 and 18 are

incorporated respectively, further; Duggan discloses each of the plurality of instances of

the test application corresponds to a separate thread (col. 21, lines 57-61 'Each session

is executed as a separate thread'), and wherein each of the separate threads is

associated with a different connection to the server (col. 5, line 66-col. 6, line 3 'A

"session" refers to the execution of one test script, on one client connection').

9.   **Regarding Claims 7, 16 and 25:** The rejection of claims 1, 9 and 18 are

incorporated respectively, further; Duggan discloses the plurality of instances of the test

application simulate use of the server application by a plurality of users (col. 6, lines 47-

51 'the test tool program … is capable of executing test scripts … based on a user list').

10.   **Regarding Claims 8, 17 and 26:** The method of claim 1, 9 and 18 further

comprising collecting data corresponding to the test (col. 8, lines 4-6 'The test tool

program … provides four options for logging information').

11.   **Regarding Claims 10 and 19:** The rejection of claims 10, and 19 are

incorporated respectively, further; Duggan discloses an interface identification system

for identifying application protocol interfaces (APIs) associated with the test application

(col. 12, lines 21-23 'A list box 272 contains a list of all of the commands in the

command module created for testing a given application program').

12.   **Regarding Claims 11 and 20:** The rejection of claims 10, and 19 are

incorporated respectively, further; Duggan discloses the test application instantiation

system comprises a driver that executes a test script capable of invoking the identified

APIs (col. 13, lines 59-62 'a test operator [can] create test scripts containing ...

command module commands), and wherein upon execution, the test script instantiates

the plurality of instances of the test application (col. 5, line 67-col. 6, line 3 'the test tool

program executes multiple concurrent sessions') using threads (col. 21, lines 57-61

'Each session is executed as a separate thread') within the single process (col. 21, lines

53-57 'The basic module 12 is also responsible for initiating multiple, concurrent

sessions').

Claim Rejections - 35 USC § 103

13.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

14.   **Claims 6, 15 and 24 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over US 6,002,871 to Duggan et al. (Duggan) in view of "The Java^{tm}

Virtual Machine Specification" by Lindholm et al (Lindholm).

15.   **Regarding Claims 6, 15 and 24:** The rejection of claims 1, 9 and 18 are

incorporated respectively, further; Duggan does not disclose the process comprises a

JAVA virtual machine.

16.   Lindholm teaches that JAVA programs, which run on a JAVA virtual machine

were well known at the time of the invention, and that JAVA programs and the JVM

provided benefits known to those of ordinary skill in the art.

17.   It would have been obvious to a person of ordinary skill in the art at the time of

the invention to implement Duggan's 'test tool' and 'basic module' in the JAVA

programming language and execute them on a JVM.

Conclusion

18.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jason Mitchell whose telephone number is (571) 272-

3728. The examiner can normally be reached on Monday-Thursday and alternate

Fridays 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason Mitchell
3/10/07

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